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March 26, 2021

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

**Re: Public Service Commission Review of South Carolina Code of Regulations
Chapter 103 Pursuant to S.C. Code Ann. Section 1-23-120(J)
Docket Number: 2020-247-A**

Dear Ms. Boyd:

Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (together, the “Companies”) are jointly submitting this letter in response to the request made by the Clerk’s Office of the Public Service Commission of South Carolina (the “Commission”) for feedback regarding its proposed Minimum Filing Requirements (“MFRs”) for future rate case application filings in South Carolina. The Companies appreciate the opportunity to provide additional feedback on the proposed MFRs and will participate in the workshop scheduled for Monday, April 5, 2021.

As explained in comments filed in this docket on March 5, 2021, although the Companies generally support the concept of MFRs, the Companies disagree with the Consumer Advocate’s recommendation that utilities’ rate applications and attendant schedules should be uniformly formatted. As stated in the Companies’ reply comments filed on February 18, 2021, the burden is on utilities to establish their case, and utilities should therefore be permitted to file their applications in a way that makes sense on a utility-specific basis and based upon the issues in their respective cases. Utilities have different ways of maintaining their business records and related schedules that support the application, so uniform formatting is not practicable from a business operations perspective. The Companies do not, however, oppose the Consumer Advocate’s recommendation that utilities should provide a uniform summary of their rate case application, including additional, relevant data points that may be readily understood. The Companies also do not disagree with the Consumer Advocate’s recommendation that utilities should file their direct testimony at the same time as their application. This has historically been the Companies’ practice

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for rate case applications, and it has worked well in DEC and DEP dockets. However, the Companies reiterate that non-rate case dockets, like IRPs, are distinguishable. IRPs are the product of many multiple interdependent analyses, and it would be impractical to draft testimony until an IRP is complete and filed with the Commission.

The Companies appreciate Commission staff's attention to S.C. Code Ann. § 103-823 in the context of proposed MFRs, and believe that the workshops and comments filed in this docket will form a substantive foundation for a formal rulemaking on these issues, pursuant to S.C. Code Ann. § 1-23-110, *et seq.* The Companies believe a formal rulemaking under the S.C. Administrative Procedures Act is the appropriate forum for consideration of such significant changes to Commission practice and procedure, particularly to the extent the Commission intends the MFRs to impose a binding norm rather than provide general guidance for utilities. *See, e.g., Joseph v. S.C. Dep't of Labor, Licensing & Regulation*, 417 S.C. 436, 454, 790 S.E.2d 763, 772 (2016); *Sloan v. Sanford*, 357 S.C. 431, 491, 593 S.E.2d 470, 598 (2004) (Toal, C.J., dissenting)).

Notwithstanding the Companies' reservations with the adoption of uniform rate case schedules, the Companies generally support the concept of providing any additional information the Commission deems relevant for the evaluation of the Companies' rate applications. To that end, in the Companies' March 5, 2021 filing, the Companies conducted a review of the MFR spreadsheet, along with the requirements applicable in Florida and Arkansas. Additionally, since the Companies already provide some of this information when they file their rate applications in South Carolina, including exhibits to the applications, exhibits to rate application supporting testimony, and responses to initial audit information requests ("AIRs") issued by the Office of Regulatory Staff ("ORS"), the Companies compared the Florida and Arkansas MFRs to what has traditionally been provided to the Commission and the ORS in South Carolina. Further, in North Carolina, the North Carolina Utilities Commission ("NCUC") requires the filing of Electric Information Reports, also commonly known as "E-1s", which are the equivalent to the Florida and Arkansas MFRs. Because the Companies are already required to provide most of the same or similar information in the Florida and Arkansas MFRs to the NCUC via the E-1s, the Companies also conducted a comparison review of the requirements applicable in North Carolina to identify those commonalities. The product of the Companies' analysis is reflected in Attachment A of the March 5 filing.

On March 18, 2021, Commission staff recommended adopting Florida's MFRs for electric and gas utilities, with some exceptions and additional requirements. While the Companies have conducted an initial review of the proposed MFRs, the Companies have not had an opportunity to mark up or provide feedback on each individual schedule, given the compressed timeline for providing comments. However, Florida relies on a forecasted test year model for establishing new rates while South Carolina uses a historic test year model. Per the S.C. Supreme Court, the historic test year ratemaking model used in South Carolina "serves as a mechanism to isolate the data which necessarily must be reviewed in order to determine the rate base, and, consequently, the validity of a requested rate increase. Essential to the success of this method of rate base determination is the establishment of a 'cut-off' date, to insure some degree of finality in the rate making process." *Parker v. S.C. Pub. Serv. Comm'n*, 280 S.C. 310, 311, 313 S.E.2d 290, 292 (1984). Florida's forward-looking test year model is entirely inconsistent and incompatible with

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our state's historic test year model. For these reasons, the Companies note that all of the Florida MFR schedules will need to be thoroughly reviewed and edited to remove items that are irrelevant or incapable of being produced using a historic test year model.

Further, the Companies conducted an additional review of the MFR proposal as expeditiously and thoroughly as was possible under the compressed timeline for providing additional comments. While the Companies have identified some Florida MFR schedules that should not be adopted for use in South Carolina at all, this list is not exhaustive or definitive, and a more detailed review is necessary should Commission staff choose to move forward with this proposal. Specifically, the following Florida MFR Schedules should not be adopted because they are specific to either (a) a utility with a forecasted test year or (b) a statutory or regulatory requirement specific to the Florida jurisdiction:

- B-14 - Earnings Test
- C-6 - Budgeted Versus Actual Operating Revenues and Expenses
- C-24 - Parent(s) Debt Information
- C-31 - Affiliated Company Relationships
- C-37 - O & M Benchmark Comparison By Function
- C-39 - Benchmark Year Recoverable O & M Expenses By Function
- C-40 - O & M Compound Multiplier Calculation
- C-41 - O & M Benchmark Variance By Function
- E-11 - Development of Coincident and Noncoincident Demands For Cost Study
- E-12 - Adjustment to Test Year Revenue
- E-15 - Projected Billing Determinants-Derivation
- E-17 - Load Research Data
- E-19a - Demand and Energy Losses
- E-19b - Energy Losses
- E-19c - Demand Losses
- F-3 - Business Contracts with Officers or Directors
- F-5 - Forecasting Models
- F-6 - Forecasting Models-Sensitivity of Output to Changes in Input Data
- F-7 - Forecasting Models - Historical Data
- F-8 - Assumptions

Additionally, the following Florida MFR Schedules are examples of those that should not be adopted in their entirety and will need to be modified for South Carolina because some of the information conveyed is specific to a utility with a forecasted test year:

- B-3 - 13 Month Average Balance Sheet - System Basis
- B-8 - Monthly Plant Balances Test Year-13 Months
- B-10 - Monthly Reserve Balances Test Year-13 Months
- B-17 - Working Capital-13 Month Average
- D-2 - Cost of Capital - 5 Year History
- D-9 - Financial Indicators-Summary

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As explained in earlier comments, the Companies believe there are significant benefits to considering options beyond the Florida and Arkansas models. Because the Companies already provide much of the information contained in the schedules in South Carolina via exhibits to rate applications, exhibits to rate application supporting testimony, or in responses to ORS AIRs, the Companies submit that utilizing the South Carolina approach as a foundation for MFRs is preferable as it will be the most familiar to the Commission, ORS, and potential intervening parties. The Companies urge Commission staff to first consider the potential efficiencies of establishing MFRs based on current South Carolina practice before looking to other states. As stated above, the Companies are providing these preliminary comments in anticipation of a formal rulemaking, wherein the parties will have sufficient time to review and comment on any proposals from Commission staff.

The Companies appreciate the opportunity to provide additional comments and look forward to continuing to engage with the Clerk's Office and the parties to this docket in a collaborative fashion.

Sincerely,



Katie M. Brown

cc: Parties of record
Afton Ellison, Public Service Commission of South Carolina
Jocelyn G. Boyd, Public Service Commission of South Carolina